

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-218999

DATE: November 22, 1985

MATTER OF: Multi Roof Systems, Inc. -
Davis-Bacon Act Debarment

DIGEST:

The Department of Labor recommended debarment of a contractor under the Davis-Bacon Act because the contractor had failed to pay the minimum wages required by the Act and had falsified certified payroll records. Based on our independent review of the record in this matter, we conclude that the contractor disregarded its obligation to its employees under the Act. There was a substantial violation of the Act in that the underpayment of employees and falsification of records was intentional. Therefore, the contractor will be debarred under the Act.

The Assistant Administrator, Employment Standards Administration, United States Department of Labor (DOL), by a letter dated November 9, 1984, recommended that Multi Roof Systems, Inc. (Multi Roof), and Reginald Boyd, individually and as its President, be placed on the ineligible bidders list for violation of the Davis-Bacon Act, 40 U.S.C. §§ 276a to 276a-5 (1982), and of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 327-332 (1982), which constituted a disregard of obligations to employees under these Acts. We concur in DOL's recommendation.

Multi Roof performed work under contract number DAAG02-80-C-0047(J) with the Department of the Army and numbers F-04699-81-C-0201 and F-41652-80-C-0035 with the Department of the Air Force doing roofing work. The contract was subject to the Davis-Bacon Act requirements that certain minimum wages be paid. Further, pursuant to 29 C.F.R. § 5.5(a) (1984), the contractor was to submit payroll records certified as to correctness and completeness.

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The DOL found as a result of an investigation, that employees were not paid the minimum wages required pursuant to the Davis-Bacon Act. Further, DOL found that all necessary certified payrolls were not submitted and, those that were submitted were falsified to show the payment of wage rates higher than those actually paid. The DOL also found that the contractor did not pay its employees proper overtime compensation. Finally, DOL found that Mr. Boyd had not demonstrated a responsibility to comply with the applicable labor standards and found no acceptable explanation regarding these serious violations which would militate against debarment action. The DOL notified Multi Roof and Mr. Boyd by a certified letter dated November 9, 1982, of the nature and extent of the alleged Davis-Bacon Act violations with which it was charged, and that debarment was possible. They were also given an opportunity for a hearing on the matter before an administrative law judge. Such a hearing was not requested.

Based on our independent review of the record in this matter, we conclude that Multi Roof disregarded its obligations to its employees under the Davis-Bacon Act. There was a substantial violation of the Davis-Bacon Act in that the underpayment of employees was intentional as demonstrated by Multi Roof's bad faith in the falsification of certified payroll records. See Circular Letter B-3368, March 19, 1957. Further, Multi Roof failed to pay its employees proper overtime compensation.

Therefore, Multi Roof Systems, Inc., and Reginald Boyd, individually and as its President, will be included on a list to be distributed to all departments of the Government. Pursuant to statutory direction (40 U.S.C. § 276a-2), no contract shall be awarded to them or to any firm, corporation, partnership, or association in which they, or any of them, have an interest until 3 years have elapsed from the date of publication of such list.

Further, funds on deposit with our Office--\$14,954.15--are ordered to be disbursed to the wage claimants in accordance with established procedures.

Henry R. Wray

Henry R. Wray
Associate General Counsel